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Casey Asks Justice Dept. to Prosecute NBC News

CIA Chief Cites Report That Pelton Betrayed U.S. Subs' Eavesdropping in Soviet Harbors

By Eleanor Randolph
Washington Post Staff Writer

CIA Director William J. Casey asked the Justice Department to consider prosecuting NBC News for violation of a 1950 law against disclosures of "communications intelligence" after the network broadcast a report yesterday on the trial of accused spy Ronald W. Pelton.

The report from correspondent James Polk, which appeared during the 7 a.m. news segment of the "Today" show, normally seen by about 9 million people, said in part that "Pelton apparently gave away one of the NSA's [National Security Agency's] most sensitive secrets—a project with the code name Ivy Bells—believed to be a top-secret eavesdropping program by American submarines inside Soviet harbors."

Casey's statement, which was read to executives at other networks by Central Intelligence Agency officials, said, "We believe that the assertions, if true, made by James Polk on the NBC 'Today' show this morning violate the prohibitions in 18 USC [U.S. Code] 798 against publishing any classified information concerning the communications intelligence activities of the United States. My statutory obligation to protect intelligence sources and methods requires me to refer this matter to the Department of Justice."

Justice Department spokesman John K. Russell had no comment.

Several network executives said last night that by referring the case for possible prosecution Casey gave the report much broader circulation than it received in the brief show segment.

On the "NBC Nightly News" last night, anchorman Tom Brokaw reported that Casey had sent the matter to the Justice Department. Brokaw did not repeat the words used by Polk, saying only that "the report said [Pelton] gave the Soviets information about electronic eavesdropping done by U.S. submarines." Brokaw added that NBC was referring the matter to its legal counsel.

ABC and CNN reported Casey's referral and paraphrased the Polk report. CBS did not report on the matter. "CBS Evening News" Executive Producer Tom Bettag said the story would confuse viewers unless it were explained in depth. "If we want to report this, we've got to do it in a much broader context," he said.

Casey's move against NBC comes after a series of threats by him and other administration officials to take legal action against both "leakers" and news organizations that publish classified information.

On May 2, Casey threatened editors of The Washington Post with prosecution under the same statute he cited in relation to Polk's report yesterday if The Post published a story it had prepared on Pelton's case. The Post is still weighing Casey's objections to that story.

In recent weeks, the administration has fired mid-level officials from the Pentagon and State Department for allegedly leaking classified information.

The law mentioned by Casey has been on the statute books since 1950 but no news organization has been prosecuted under it.

NBC executives declined to comment beyond Brokaw's statement on the "NBC Nightly News."

An executive at one network suggested that NBC could defend itself by citing other instances when the news media published descriptions of electronic eavesdropping involving U.S. submarines.

In Baltimore yesterday, jury selection began in Pelton's espionage trial. Staff writer Susan Schmidt reported that the choice of a jury is expected to take several days as Pelton's court-appointed lawyers seek jurors who have not been prejudiced by pretrial publicity in the case.

WILLIAM J. CASEY
... refers to 1950 disclosure law

Fred Warren Bennett, the lead defense attorney, who also defended admitted Soviet spy John Anthony Walker Jr., has said part of his defense in the Pelton trial will center on the what he contends were direct and implied promises by FBI agents that Pelton would not be prosecuted if he cooperated with them.

After a two-day hearing earlier this month, Judge Herbert Murray ruled that Pelton's statements to the agents were made voluntarily and could be admitted as evidence at trial.

Both sides have agreed not to introduce any classified information during the trial, and to keep all documents relating to the case under lock and key in the Baltimore courthouse.

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